

AMENDED IN ASSEMBLY JUNE 23, 2010

AMENDED IN SENATE APRIL 6, 2010

**SENATE BILL**

**No. 1149**

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**Introduced by Senator Corbett**

February 18, 2010

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An act to amend Section 1161.2 of, and to ~~amend, repeal, and add~~ ~~Section 1161a of,~~ *add and repeal Section 1161c of,* the Code of Civil Procedure, relating to residential tenancies and foreclosure.

LEGISLATIVE COUNSEL'S DIGEST

SB 1149, as amended, Corbett. Residential tenancies: foreclosure.

Existing law governs unlawful detainer proceedings. Existing law authorizes the court clerk to allow access to limited civil case records filed under these provisions to certain persons, including a party to the action or a resident of the premises, under certain conditions, without regard to when they request that access. Existing law also authorizes the clerk to allow access to any other person 60 days after the complaint has been filed, unless a defendant prevails in the action within 60 days of the filing of the complaint, in which case the clerk may not allow access to any court records in the action, except as specified.

This bill would additionally authorize the clerk to allow access to those records to any other person in the case of a complaint involving residential property that has been sold in foreclosure, or under other, specified proceedings, if 60 days have elapsed since proof of service of the complaint was filed with the court and judgment against all defendants has been entered for the plaintiff, after a trial. If judgment is not entered under these conditions, the bill would prohibit the clerk from allowing access to any court records in the action, except to the

persons described above who are permitted access without regard to when they request access.

Existing law governing unlawful detainer proceedings also requires that a tenant or subtenant in possession of a rental housing unit, as defined, which has been sold by reason of certain enumerated causes, including foreclosure, who rents or leases the rental housing unit either on a periodic basis, as specified, or for a fixed period of time, be given written notice to quit, as specified, at least as long as the term of hiring itself but not exceeding 30 days, before the tenant or subtenant may be removed from that rental housing unit.

This bill would additionally require, *until January 1, 2013*, that any notice to quit regarding a housing unit served within one year after a foreclosure sale include a separate cover sheet that contains an additional notice to renters. The bill would set forth the content of this notice providing the tenant with specified information regarding tenants' rights. ~~The failure to attach this cover sheet would subject the owner to a \$500 fine in addition to any other fines, penalties, and remedies provided by law. The bill would also provide that under certain circumstances the cover sheet need not be served, as specified. The bill would provide a modified version of the notice to renters that would be in effect on and after January 1, 2013.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1161.2 of the Code of Civil Procedure
- 2 is amended to read:
- 3 1161.2. (a) The clerk may allow access to limited civil case
- 4 records filed under this chapter, including the court file, index,
- 5 and register of actions, only as follows:
- 6 (1) To a party to the action, including a party's attorney.
- 7 (2) To any person who provides the clerk with the names of at
- 8 least one plaintiff and one defendant and the address of the
- 9 premises, including the apartment or unit number, if any.
- 10 (3) To a resident of the premises who provides the clerk with
- 11 the name of one of the parties or the case number and shows proof
- 12 of residency.
- 13 (4) To any person by order of the court, which may be granted
- 14 ex parte, on a showing of good cause.

1 (5) Except as provided in paragraph (6), to any other person 60  
2 days after the complaint has been filed, unless a defendant prevails  
3 in the action within 60 days of the filing of the complaint, in which  
4 case the clerk may not allow access to any court records in the  
5 action, except as provided in paragraphs (1) to (4), inclusive.

6 (6) In the case of a complaint involving residential property  
7 based on Section 1161a or 1161b, to any other person, if 60 days  
8 have elapsed since proof of service of the complaint was filed with  
9 the court, and, as of that date, judgment against all defendants has  
10 been entered for the plaintiff, after a trial. If judgment is not entered  
11 under the conditions described in this paragraph, the clerk shall  
12 not allow access to any court records in the action, except as  
13 provided in paragraphs (1) to (4), inclusive.

14 (b) For purposes of this section, “good cause” includes, but is  
15 not limited to, the gathering of newsworthy facts by a person  
16 described in Section 1070 of the Evidence Code. It is the intent of  
17 the Legislature that a simple procedure be established to request  
18 the ex parte order described in subdivision (a).

19 (c) Upon the filing of any case so restricted, the court clerk shall  
20 mail notice to each defendant named in the action. The notice shall  
21 be mailed to the address provided in the complaint. The notice  
22 shall contain a statement that an unlawful detainer complaint  
23 (eviction action) has been filed naming that party as a defendant,  
24 and that access to the court file will be delayed for 60 days except  
25 to a party, an attorney for one of the parties, or any other person  
26 who (1) provides to the clerk the names of at least one plaintiff  
27 and one defendant in the action and provides to the clerk the  
28 address, including any applicable apartment, unit, or space number,  
29 of the subject premises, or (2) provides to the clerk the name of  
30 one of the parties in the action or the case number and can establish  
31 through proper identification that he or she lives at the subject  
32 premises. The notice shall also contain a statement that access to  
33 the court index, register of actions, or other records is not permitted  
34 until 60 days after the complaint is filed, except pursuant to an  
35 order upon a showing of good cause therefor. The notice shall  
36 contain on its face the name and telephone number of the county  
37 bar association and the name and telephone number of an office  
38 or offices funded by the federal Legal Services Corporation or  
39 qualified legal services projects that receive funds distributed  
40 pursuant to Section 6216 of the Business and Professions Code,

1 that provide legal services to low-income persons in the county in  
2 which the action is filed. The notice shall state that these numbers  
3 may be called for legal advice regarding the case. The notice shall  
4 be issued between 24 and 48 hours of the filing of the complaint,  
5 excluding weekends and holidays. One copy of the notice shall be  
6 addressed to “all occupants” and mailed separately to the subject  
7 premises. The notice shall not constitute service of the summons  
8 and complaint.

9 (d) Notwithstanding any other provision of law, the court shall  
10 charge an additional fee of fifteen dollars (\$15) for filing a first  
11 appearance by the plaintiff. This fee shall be added to the uniform  
12 filing fee for actions filed under this chapter.

13 (e) This section does not apply to a case that seeks to terminate  
14 a mobilehome park tenancy if the statement of the character of the  
15 proceeding in the caption of the complaint clearly indicates that  
16 the complaint seeks termination of a mobilehome park tenancy.

17 ~~SEC. 2. Section 1161a of the Code of Civil Procedure is~~  
18 ~~amended to read:~~

19 ~~1161a. (a) As used in this section:~~

20 ~~(1) “Manufactured home” has the same meaning as provided~~  
21 ~~in Section 18007 of the Health and Safety Code.~~

22 ~~(2) “Mobilehome” has the same meaning as provided in Section~~  
23 ~~18008 of the Health and Safety Code.~~

24 ~~(3) “Floating home” has the same meaning as provided in~~  
25 ~~subdivision (d) of Section 18075.55 of the Health and Safety Code.~~

26 ~~(b) In any of the following cases, a person who holds over and~~  
27 ~~continues in possession of a manufactured home, mobilehome,~~  
28 ~~floating home, or real property after a three-day written notice to~~  
29 ~~quit the property has been served upon the person, or if there is a~~  
30 ~~subtenant in actual occupation of the premises, also upon that~~  
31 ~~subtenant, as prescribed in Section 1162, may be removed~~  
32 ~~therefrom as prescribed in this chapter:~~

33 ~~(1) If the property has been sold pursuant to a writ of execution~~  
34 ~~against that person, or a person under whom that person claims,~~  
35 ~~and the title under the sale has been duly perfected.~~

36 ~~(2) If the property has been sold pursuant to a writ of sale, upon~~  
37 ~~the foreclosure by proceedings taken as prescribed in this code of~~  
38 ~~a mortgage, or under an express power of sale contained therein,~~  
39 ~~executed by that person, or a person under whom that person~~  
40 ~~claims, and the title under the foreclosure has been duly perfected.~~

1 ~~(3) If the property has been sold in accordance with Section~~  
2 ~~2924 of the Civil Code, under a power of sale contained in a deed~~  
3 ~~of trust executed by that person, or a person under whom that~~  
4 ~~person claims, and the title under the sale has been duly perfected.~~

5 ~~(4) If the property has been sold by that person, or a person~~  
6 ~~under whom that person claims, and the title under the sale has~~  
7 ~~been duly perfected.~~

8 ~~(5) If the property has been sold in accordance with Section~~  
9 ~~18037.5 of the Health and Safety Code under the default provisions~~  
10 ~~of a conditional sale contract or security agreement executed by~~  
11 ~~that person, or a person under whom that person claims, and the~~  
12 ~~title under the sale has been duly perfected.~~

13 ~~(e) Notwithstanding the provisions of subdivision (b), a tenant~~  
14 ~~or subtenant in possession of a rental housing unit which has been~~  
15 ~~sold by reason of any of the causes enumerated in subdivision (b),~~  
16 ~~who rents or leases the rental housing unit either on a periodic~~  
17 ~~basis from week to week, month to month, or other interval, or for~~  
18 ~~a fixed period of time, shall be given written notice to quit pursuant~~  
19 ~~to Section 1162, at least as long as the term of hiring itself but not~~  
20 ~~exceeding 30 days, before the tenant or subtenant may be removed~~  
21 ~~therefrom as prescribed in this chapter.~~

22 ~~(d) (1) Any notice or notices to quit regarding a housing unit~~  
23 ~~served within one year after a foreclosure sale shall include a~~  
24 ~~separate cover sheet attached on top of the notice or notices.~~

25 ~~(2) The cover sheet shall consist of the following notice, in at~~  
26 ~~least 12-point type:~~

27  
28 Notice to Any Renters Living At  
29 {street address of the unit}  
30

31 ~~The attached notice means that the owner of your home plans~~  
32 ~~to evict you. You should talk to a lawyer immediately to see what~~  
33 ~~your rights are.~~

34 ~~If you receive any court papers, you must file a written response~~  
35 ~~on a special form with the court, within five days. You must~~  
36 ~~respond even if your name is not on the papers. If you don't~~  
37 ~~respond, you will likely lose any rights you may have. In many~~  
38 ~~cases, you can respond without being reported to a credit or tenant~~  
39 ~~reporting agency. You should ask a lawyer about it.~~

~~You usually have the right to stay in your home for 90 days, regardless of any deadlines stated on any attached papers. You may have the right to stay even longer if you have a lease. In some cases and in some cities with a “just cause for eviction law,” you may not have to move at all. But you must take the proper legal steps in order to protect your rights. Your home was sold in foreclosure on [insert date], and the sale was recorded in [insert recorded document location]. Your rights are affected by whether you lived at the property on the date it was sold.~~

#### How to Get Legal Help

~~If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association.~~

~~(3) Failure to attach the cover sheet as required by this section shall subject the owner to a civil fine of five hundred dollars (\$500), in addition to any other fines, penalties, and remedies provided by law.~~

~~(e) The cover sheet required by subdivision (d) need not be served if all of the following apply:~~

~~(1) The tenancy sought to be terminated was created after the foreclosure sale, by written agreement of the parties.~~

~~(2) The written agreement is attached to the notice.~~

~~(3) Either:~~

~~(A) The notice is served for a cause specified in Section 1161 and complies with the requirements of that section.~~

~~(B) The notice is served pursuant to Section 1946.1 of the Civil Code, and at least 60 days have elapsed after the foreclosure sale before notice is given.~~

~~(f) For the purpose of this section, “rental housing unit” means any structure or any part thereof which is rented or offered for rent for residential occupancy in this state.~~

~~(g) This section shall remain in effect only until January 1, 2013, and as of that date is repealed.~~

1 SEC. 3. ~~Section 1161a is added to the Code of Civil Procedure,~~  
2 ~~to read:~~

3 1161a. (a) ~~As used in this section:~~

4 (1) ~~“Manufactured home” has the same meaning as provided~~  
5 ~~in Section 18007 of the Health and Safety Code.~~

6 (2) ~~“Mobilehome” has the same meaning as provided in Section~~  
7 ~~18008 of the Health and Safety Code.~~

8 (3) ~~“Floating home” has the same meaning as provided in~~  
9 ~~subdivision (d) of Section 18075.55 of the Health and Safety Code.~~

10 (b) ~~In any of the following cases, a person who holds over and~~  
11 ~~continues in possession of a manufactured home, mobilehome,~~  
12 ~~floating home, or real property after a three-day written notice to~~  
13 ~~quit the property has been served upon the person, or if there is a~~  
14 ~~subtenant in actual occupation of the premises, also upon that~~  
15 ~~subtenant, as prescribed in Section 1162, may be removed~~  
16 ~~therefrom as prescribed in this chapter:~~

17 (1) ~~If the property has been sold pursuant to a writ of execution~~  
18 ~~against that person, or a person under whom that person claims,~~  
19 ~~and the title under the sale has been duly perfected.~~

20 (2) ~~If the property has been sold pursuant to a writ of sale, upon~~  
21 ~~the foreclosure by proceedings taken as prescribed in this code of~~  
22 ~~a mortgage, or under an express power of sale contained therein,~~  
23 ~~executed by that person, or a person under whom that person~~  
24 ~~claims, and the title under the foreclosure has been duly perfected.~~

25 (3) ~~If the property has been sold in accordance with Section~~  
26 ~~2924 of the Civil Code, under a power of sale contained in a deed~~  
27 ~~of trust executed by that person, or a person under whom that~~  
28 ~~person claims, and the title under the sale has been duly perfected.~~

29 (4) ~~If the property has been sold by that person, or a person~~  
30 ~~under whom that person claims, and the title under the sale has~~  
31 ~~been duly perfected.~~

32 (5) ~~If the property has been sold in accordance with Section~~  
33 ~~18037.5 of the Health and Safety Code under the default provisions~~  
34 ~~of a conditional sale contract or security agreement executed by~~  
35 ~~that person, or a person under whom that person claims, and the~~  
36 ~~title under the sale has been duly perfected.~~

37 (c) ~~Notwithstanding the provisions of subdivision (b), a tenant~~  
38 ~~or subtenant in possession of a rental housing unit which has been~~  
39 ~~sold by reason of any of the causes enumerated in subdivision (b),~~  
40 ~~who rents or leases the rental housing unit either on a periodic~~

1 basis from week to week, month to month, or other interval, or for  
2 a fixed period of time, shall be given written notice to quit pursuant  
3 to Section 1162, at least as long as the term of hiring itself but not  
4 exceeding 30 days, before the tenant or subtenant may be removed  
5 therefrom as prescribed in this chapter.

6 (d) (1) Any notice or notices to quit regarding a housing unit  
7 served within one year after a foreclosure sale shall include a  
8 separate cover sheet attached on top of the notice or notices.

9 (2) The cover sheet shall consist of the following notice, in at  
10 least 12-point type:

11  
12 Notice to Any Renters Living At  
13 {street address of the unit}  
14

15 The attached notice means that the owner of your home plans  
16 to evict you. You should talk to a lawyer immediately to see what  
17 your rights are.

18 If you receive any court papers, you must file a written response  
19 on a special form with the court, within five days. You must  
20 respond even if your name is not on the papers. If you don't  
21 respond, you will likely lose any rights you may have. In many  
22 cases, you can respond without being reported to a credit or tenant  
23 reporting agency. You should ask a lawyer about it.

24 You may have the right to stay in your home for 30 days or  
25 longer, regardless of any deadlines stated on any attached papers.  
26 In some cases and in some cities with a "just cause for eviction  
27 law," you may not have to move at all. But you must take the  
28 proper legal steps in order to protect your rights. Your home was  
29 sold in foreclosure on [insert date], and the sale was recorded in  
30 [insert recorded document location]. Your rights are affected by  
31 whether you lived at the property on the date it was sold.

32  
33 How to Get Legal Help  
34

35 If you cannot afford an attorney, you may be eligible for free  
36 legal services from a nonprofit legal services program. You can  
37 locate these nonprofit groups at the California Legal Services Web  
38 site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online  
39 Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting  
40 your local court or county bar association.



~~(3) Failure to attach the cover sheet as required by this section shall subject the owner to a civil fine of five hundred dollars (\$500), in addition to any other fines, penalties, and remedies provided by law.~~

~~(e) The cover sheet required by subdivision (d) need not be served if all of the following apply:~~

~~(1) The tenancy sought to be terminated was created after the foreclosure sale, by written agreement of the parties.~~

~~(2) The written agreement is attached to the notice.~~

~~(3) Either:~~

~~(A) The notice is served for a cause specified in Section 1161 and complies with the requirements of that section.~~

~~(B) The notice is served pursuant to Section 1946.1 of the Civil Code, and at least 60 days have elapsed after the foreclosure sale before notice is given.~~

~~(f) For the purpose of this section, “rental housing unit” means any structure or any part thereof which is rented or offered for rent for residential occupancy in this state.~~

~~(g) This section shall become operative on January 1, 2013.~~

*SEC. 2. Section 1161c is added to the Code of Civil Procedure, to read:*

*1161c. (a) In the case of any foreclosure on a residential property, the immediate successor in interest in the property pursuant to the foreclosure shall attach a cover sheet, in the form as set forth in subdivision (b), to any notice of termination of tenancy served on a tenant of that property within the first year after the foreclosure sale. This notice shall not be required if any of the following apply:*

*(1) The tenancy is terminated pursuant to Section 1161.*

*(2) The successor in interest and the tenant have executed a written rental agreement or lease or a written acknowledgment of a preexisting rental agreement or lease.*

*(3) The tenant receiving the notice was not a tenant at the time of the foreclosure.*

*(b) The cover sheet shall consist of the following notice, in at least 12-point type:*

*Notice to Any Renters Living At  
[street address of the unit]*

1     *The attached notice means that your home was recently sold in*  
2     *foreclosure and the new owner plans to evict you.*

3     *You should talk to a lawyer NOW to see what your rights are.*  
4     *You may receive court papers in a few days. If your name is on*  
5     *the papers it may hurt your credit if you do not respond and simply*  
6     *move out.*

7     *Also, if you do not respond within five days of receiving the*  
8     *papers, even if you are not named in the papers, you will likely*  
9     *lose any rights you may have. In some cases, you can respond*  
10    *without hurting your credit. You should ask a lawyer about it.*

11    *You may have the right to stay in your home for 90 days or*  
12    *longer, regardless of any deadlines stated on any attached papers.*  
13    *In some cases and in some cities with a “just cause for eviction*  
14    *law,” you may not have to move at all. But you must take the*  
15    *proper legal steps in order to protect your rights.*

16    *How to Get Legal Help*

17    *If you cannot afford an attorney, you may be eligible for free*  
18    *legal services from a nonprofit legal services program. You can*  
19    *locate these nonprofit groups at the California Legal Services Web*  
20    *site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online*  
21    *Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting*  
22    *your local court or county bar association.*

23  
24    *(c) If the notice to quit specifies an effective date of at least 90*  
25    *days after the notice is served, without qualification, no cover*  
26    *sheet shall be required, provided that the notice incorporates the*  
27    *text of the cover sheet, as set forth in subdivision (b) in at least*  
28    *10-point type. The incorporated text shall omit the caption and*  
29    *the first paragraph of the cover sheet and the fourth paragraph of*  
30    *the cover sheet shall be replaced by the following language:*

31  
32    *You may have the right to stay in your home for longer than 90*  
33    *days. If you have a lease that ends more than 90 days from now,*  
34    *the new owner must honor the lease under many circumstances.*  
35    *Also, in some cases and in some cities with a “just cause for*  
36    *eviction law,” you may not have to move at all. But you must take*  
37    *the proper legal steps in order to protect your rights.*  
38

1     *(d) This section shall remain in effect only until January 1, 2013,*  
2     *and as of that date is repealed, unless a later enacted statute, that*  
3     *is enacted before January 1, 2013 deletes or extends that date.*

O